

Certified Mail #: 7004 1160 0002 2313 3878

Scott Darryl Reese  
c/o 329 Basket Branch  
Oxford, Michigan state  
SS#: 372-62-6834

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Internal Revenue Service  
477 Michigan Avenue  
Detroit, Michigan 48226-2597

## **Freedom of Information Act Request**

Attn: Disclosure Officer

This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702(f).

### **Income Tax Restructuring Act Of 1998**

26 U.S.C. 6402(k) (P. L. 105 - 206 §§ 3505):

*Explanation of reason for refund disallowance.*

*In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.*

(1) In accordance with 26 U.S.C. 6402(k), send me a true, certified, and complete copy of a meaningful explanation of denial or disallowance of any *Overpayment* refund of *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, for years 1997 through 2007, related to any:

- (a) “disallowances”, or
- (b) “submittings not filed into the record”, or
- (c) “failure to enter into the record”, or
- (d) “frivolous arguments or submitted for the record a frivolous return”, or
- (e) of the Service’s seeming allegations to want to treat the filed and sworn to *Form 1040 Individual Income Tax Returns* and their accompanying *Forms 4852s* and *Forms 1099-MISC* as “seemingly frivolous and unfiled “nullities”, “defective”, “incomplete” or “unsubmitted” documents”, or
- (f) “chance that the Service may be basing its decision not to enter properly submitted filings into the record because of contradictory “information returns””, or

(g) reason to “lawfully enter on file and into the record all proper, lawful and valid *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC* submitted for logging and recording, and refund the overpayments attributed to such forms”.

On the chance that the Service may be basing its decision not to enter properly submitted filings into the record because of contradictory “information returns”, from Part 3--Chapter 4000, of the TFM (*Treasury Financial Manual*, presumably):

4060.10 - Guide to Information Returns

Information returns include the Form W-2: Wage and Tax Statement, Form 1098: Mortgage Interest Statement, and Form 1099 series.

Form W-2: Wage and Tax Statement, includes a Form W-3, with a sworn statement as to their accuracy of “wages”, and the Form 1099 series includes a Form 1096, also with a sworn statement as to their accuracy of involvement in a “trade or business.”

(h) Is it the Service’s position that *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, are somehow supplanted, displaced or superceded by subscribed or unsigned forms of secretaries, accountants or other office personnel working for private sector companies and private sector contractors under the pretense of acting as a 26 U.S.C. §7701 “withholding agent”, having no firsthand knowledge of what is being subscribed to, and having no Sixth Amendment 5 U.S.C. §3331 Oath of Office on file with the government?

(i) Is it the Service’s position that filing *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, can willfully be a crime?

(j) Is it the Service’s position that *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, represent filings that are incorrect, and is it up to the Service to correct such filings by demonstrating proper application of law to whatever incorrect fact is stated?

(k) Is it the Service’s contention that *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, that Letter 3176C can legally “advise” a filer as to the requirements of the law, and that all Laws, Statutes, Codes and Regulations are somehow supplanted, displaced or superceded by Letter 3176C, based upon an alleged or supposed position, belief, philosophy, standing, standpoint, status, viewpoint, circumstance, condition, conviction, creed, ideology, opinion, outlook, perspective, point, posture, or principle of filer?

**From Part 3--Chapter 4000, of the TFM:**

Section 4020 - Federal Withholding Rules

4020.10 - Specific Rules

IRC section 3122 gives the head of a **Federal agency**, or the **designated delegate**, the authority to determine:

- Whether the services performed by **Federal employees** constitute employment.
- The periods of such employment.
- **Whether the remuneration paid for such services constitutes wages.**

IRC section 3402(a) requires **Federal agencies** to deduct and withhold **Federal income taxes from wages** exceeding the total amount of **withholding exemptions**. If the **employer** is the United States or an **agency or instrumentality of the United States**, an **officer or employee** with control of the payment of **wages** may make the tax return for the amount deducted and withheld. (See IRC section 3404.)

IRC section 3101 imposes the **employee** portion of Social Security and Medicare taxes on wages.

IRC section **3102** requires the **employer** to **withhold** these amounts from **wages**.

IRC section 3111 imposes the **employer** portion of the Social Security and Medicare taxes on **wages**.

and

Section 4025 - IRC Instructions

**4025.10 - Withholding and Deducting Federal Income Taxes**

IRC sections 3402(a) and 3404 require **Federal agencies** to **deduct** and **withhold Federal income taxes** from **wages**, including incentive and merit awards.

and

**4025.60 - Submission Requirements for Form W-4**

**Agencies** must submit a copy of **Form W-4** to the IRS if an **employee** claims:

- Ten or more withholding allowances.

OR

- Exemption from withholding and the **employee** earns more than \$200 a week.

Before filing the FEDTAX Form 941: Employer's Quarterly Federal Tax Return, send Forms W-4 to the local IRS service center with a cover letter. The cover letter must include the agency name, address, employer identification number (EIN), and number of forms attached.

Alternatively, attach the **Forms W-4** to a paper Form 941.

The IRS informs an **agency** in a written notice that an **employee's Form W-4** is defective. The **agency** must provide the **employee** with a copy of the **notice**. It should withhold based on the maximum number of allowances in the notice. This applies unless the **employee** files a new **Form W-4** consistent with the notice.

#### 4025.70 - Expiration of Exempt Form W-4

**Employees** who claim **exemption from withholding** must submit new **Forms W-4** by February 15. If they do not do so, the **agency** must **withhold** taxes as though the **employee** was single, claiming zero exemptions.

#### Section 4030 - Federal Insurance Contributions Act (FICA)

IRC section 3102 requires **employers** and **Federal agencies** to deduct and withhold the **employee** portion of FICA taxes from **wages** paid to **employees**. IRC sections 3111 and 3112 mandate that **Federal agencies** pay the **employer** portion of the FICA tax. FICA taxes consist of two types:

- Old-Age, Survivors and Disability Insurance (OASDI) [IRC sections 3101(a) and 3111(a)].
- Hospital insurance (Medicare tax) [IRC sections 3101(b) and 3111(b)].

(l) Is it the Service's position that in connection with *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, secretaries, accountants or other office personnel working for private sector companies and private sector contractors have a designation under the head of a **Federal agency**, or the **designated delegate** to act as a "**withholding agent**" for such private companies and private contractors? (**designated delegate** means *Secretary of the Treasury or Commissioner of Internal Revenue*, and as such, would have a "**commission**" on file to carry out their **delegated authority**).

(m) Is it the Service's position that *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, has not met each and every one of the listed requirements, and that the Service is inferring a dishonest disingenuousness in trying to insinuate and imply that filer has not, and that some such delaying tactics as are enumerated in said list have been used by the Service in the hope that filer will, by artifice and deceit on the part of the Service, forfeit his right to such *Overpayments* as rightfully are his?

(n) Is it the Service's determination that anything enumerated on the list that follows (From Letter **3176C**) in conjunction with the filing of *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, addresses a return by which the accuracy of assessment is compromised, and are subject to the frivolous return provisions or penalty, relative to the accuracy of assessment?

(o) Is it the Service's position that *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, the only evidence by a competent witness with first-hand knowledge of facts in record, or at least the only testimony or evidence thus far disclosed, is outweighed by some other evidence in record?

(p) Is it the Service's position that filed *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, are being "disallowed" because of the Service's contention that someone ***other than filer*** has first hand knowledge, the only evidence by a *competent witness* with knowledge of facts in record, and has knowingly and intentionally stated upon oath that which ***is*** true?, or

(q) other such wordings, or

(r) **ANY OTHER REASON.**

As in the *Radinsky* case (*Radinsky v. U.S.*, 622 F.Supp. 412 (D.Colo. 1985)), any position taken by the Service that the provisions of 26 U.S.C. 6402(k) don't apply to non-"taxpayers" and only to "taxpayers" should be explained in detail, i.e.:

(s) If it is the Service's position that filed *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, that in accordance with 26 U.S.C. 6402(k) Requestor is a "taxpayer" to whom a meaningful explanation is warranted for any "disallowance", then explanation shall be made.

or, conversely:

(t) If it is the Service's position that filed *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, by what is known and believed by the filer, that in accordance with 26 U.S.C. 6402(k) Requestor is a non-"taxpayer" to whom a meaningful explanation is not warranted for any "disallowance", then explanation shall be made.

(2) Send me a true, certified, and complete copy(s) of the 5 U.S.C. §3331: *Oath of Office* on file for the *Secretary* (actual photocopy(s)), in conjunction with the *Explanation of reason for refund disallowance* for each of the years specified at (1) herein, with the name, the date such oath was administered, the name of the certifying officer or official before whom the oath was administered, and their office, title, and classification.

(3) Send me a true, certified, and complete copy of the commission, required to be on file for federal officers, employees, or elected officials, for the *Secretary* (actual photocopy(s)), in conjunction with the *Explanation of reason for refund disallowance* for each of the years specified at (1) herein, the date such commission was administered, the name of the certifying officer or official before whom the commission was administered, and their office, title, and classification.

(4) Send me a true, certified, and complete copy of any of the bond(s) required to be posted in conjunction with 5 U.S.C. §3331: *Oath of Office*, required to be on file for federal officers, employees, or elected officials, for the *Secretary* (actual photocopy(s)), in conjunction with the *Explanation of reason for refund disallowance* for each of the years specified at (1) herein, the date such bond was posted, the name of the certifying officer or official before whom the bond was posted, and their office, title, and classification.

(I) Any refusal to respond in full to Requestor's *Freedom of Information Act* request to furnish a copy of any *Explanation of reason for refund disallowance* shall be acknowledged as a denial of such request, and will further deem and establish the fact that the agency does not have a good-faith belief that Requester is entitled to one for the reasons set forth in (1)(t).

(II) Also, a refusal to respond in full to Requestor's *Freedom of Information Act* request to furnish a copy of any *Explanation of reason for refund disallowance*, shall be acknowledged as a denial of such request, and will further deem and establish the fact that the agency does not have a good-faith belief that such Requestor is a "taxpayer" as described at 26 U.S.C. § 7701(a)(14) as *any person subject to any internal revenue tax*.

(III) Additionally, refusal to respond in full to Requestor's *Freedom of Information Act* request to furnish a copy of any *Explanation of reason for refund disallowance*, shall be acknowledged as a denial of such request, and will further deem and establish the fact that the agency does not have a good-faith belief that such Requestor has filed anything "frivolous", and that all *Overpayments* that appear on the face of *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, for the years in question, are to be remitted with proper interest to Requestor.

(IV) Still additionally, refusal to respond in full to Requestor's *Freedom of Information Act* request to furnish a copy of any *Explanation of reason for refund disallowance*, shall be acknowledged as a denial of such request, and will further deem and establish the fact that the agency does not have a good-faith belief that such Requestor is a *federal officer, employee, or elected official* described at Title 26, § 6331(a), the purported "levy" is invalid, as is any accompanying imagined "lien," and all *Overpayments* that appear on the face of *Form 1040 Individual Income Tax Returns* and their accompanying *Form 4852s* and *Form 1099-MISC*, subscribed and sworn to under penalty of perjury, are to be remitted with proper interest to Requestor.

The making of the request is not to be considered or construed as an admission of "taxpayer" status or of liability for any tax or penalty, and that a refusal to cooperate with the request will be recognized as an acknowledgment that the requester is NOT, in fact, liable for the tax or penalty alleged to be due and owing or otherwise collectible in any manner on any document(s) received and/or in relation thereto.

Any and all responses to this *Freedom of Information Act Request* shall cite which part of the request is being met. Also, any and all responses to this *Freedom of Information Act Request* shall cite which part of the request is being denied.

This request for records is being submitted under authorities cited above. All documents, records and other items fall into the category made available under 26 C.F.R. § 601.701(a)(3); they are not of a nature exempted under any category listed in 26 C.F.R. § 601.701(b). The requested records pertain to Internal Revenue Service personnel and fall within the scope of information that is authorized for disclosure by law and the Office of Personnel Management.

Procedural Requirements, Declarations, Disclosure, etc.

This request is being submitted in accordance with 26 C.F.R. § 601.702(c)(3)(ii). Therefore, portions or this entire request may be forwarded from your office to whatever other IRS office has custody of the items being requested. Response time will be governed by provisions of 26 C.F.R. §§ 601.702(c)(7)-(9). You must reply within ten business days from receipt of the request in your office, and in the event a portion or the entire request is forwarded to another office, you will please provide me with written notice; the receiving office will confirm receipt within ten days from the date received at that office. On IRS written request, I will permit an additional twelve days to provide the requested documents even though the regulation only requires ten and even though the records being requested are standard form documents that, if they exist, are maintained in dedicated systems of records and should be easy to locate.

I understand the penalties provided in 5 USC 552a(I)(3) for requesting or obtaining access to records under false pretenses.

I hereby certify under penalty of perjury under the law of these united States of America that I am a category E other requester and the human being making this request.

**As always, sign and date any and all mailings, with any badge of authority properly identifiable and acknowledgeable.**

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I do hereby certify that, to the best of my knowledge and belief, the enclosed information is true and correct.

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Date

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Scott Darryl Reese

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Subscribed to and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ .

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Notary Public, \_\_\_\_\_ County, Michigan.

My Commission Expires: \_\_\_\_\_